

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ERIC DRAKE,

Plaintiff,

v.

APPLE, INC.,

Defendant.

OPINION and ORDER

24-cv-506-jdp

Plaintiff Eric Drake, proceeding without counsel, alleges that Apple employees discriminated against him based on his race when he sought their assistance about a defective Apple computer he bought. The court has allowed him to proceed without prepaying any portion of the filing fee. Dkt. 4.

The next step is for me to screen Drake's complaint and dismiss any portion that is legally frivolous or malicious, fails to state a claim upon which relief may be granted, or asks for money damages from a defendant who by law cannot be sued for money damages. 28 U.S.C. § 1915. In doing so, I must accept his allegations as true and construe the complaint generously, holding it to a less stringent standard than formal pleadings drafted by lawyers. *Arnett v. Webster*, 658 F.3d 742, 751 (7th Cir. 2011).

Drake asserts claims under 42 U.S.C. § 1981, the Lanham Act, and Wisconsin deceptive trade practices statutes. Before addressing the substance of any of his claims, there are threshold issues regarding Drake's citizenship, personal jurisdiction over Apple, and the proper venue that must be resolved.

Drake does not explain why he has brought this lawsuit in this court. He asserts that he is a Wisconsin citizen, but that is almost certainly not true. Drake has a long history of filing

“frivolous, vexatious, harassing, or repetitive litigation” and has “‘claimed to be domiciled in multiple states using frequently changing post office box addresses.’” *Drake v. Travelers Indem. Co.*, No. 20-40492, 2022 WL 4138355, at *1 (5th Cir. Apr. 28, 2022) (quoting in part *Drake v. 7-Eleven Inc.*, No. CV419-208, 2020 WL 4196189, at *1 (S.D. Ga. June 26, 2020), *report and recommendation adopted*, No. CV419-208, 2020 WL 4194007 (S.D. Ga. July 21, 2020)). The Sheboygan address he lists in this lawsuit is the address for a mailing business called the Shipping Mill.

Nor does Drake actually describe where the events detailed in his allegations took place. Despite bringing his lawsuit here, in his complaint he makes multiple offhand references to Texas, and his extensive litigation history in Texas federal courts suggests that he resides there and that the events discussed in his allegations occurred there.

Before proceeding any further with this case, I will direct Drake to respond to this order, in a declaration that is sworn under penalty of perjury as required by 28 U.S.C. § 1746, explaining (1) the basis for his assertion of Wisconsin citizenship; and (2) specifically where the events detailed in his allegations occurred.

ORDER

IT IS ORDERED that plaintiff may have until August 21, 2024, to respond to this order as discussed above.

Entered August 7, 2024.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge